

Public Law 108–447  
108th Congress

An Act

Making appropriations for foreign operations, export financing, and related programs  
for the fiscal year ending September 30, 2005, and for other purposes

Dec 8, 2004

[H R 4818]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

Consolidated  
Appropriations  
Act, 2005

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Consolidated Appropriations  
Act, 2005”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

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**DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG  
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Title I—Agricultural Programs  
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**DIVISION C—ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT,  
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Title I—Department of Defense—Civil  
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**DIVISION D—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED  
PROGRAMS APPROPRIATIONS ACT, 2005**

Title I—Export and Investment Assistance

(3)(A) is presently maintaining a residence in the United States or whose surviving spouse is presently maintaining such a residence; or

(B) was approved for refugee resettlement or immigrant visa processing and is awaiting departure formalities from Vietnam or whose surviving spouse is awaiting such departure formalities.

#### JOINT EXPLANATORY STATEMENT

SEC. 595 (a) Funds provided in this Act for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the joint explanatory statement of managers accompanying this Act:

“Economic Support Fund”.

“Assistance for Eastern Europe and the Baltic States”.

“Assistance for the Independent States of the Former Soviet Union”.

“Andean Counterdrug Initiative”.

“Nonproliferation, Anti-Terrorism, Demining and Related Programs”.

“Foreign Military Financing Program”.

“International Organizations and Programs”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the joint explanatory statement of managers shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

This division may be cited as the “Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005”

### DIVISION E—DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

#### TITLE I—DEPARTMENT OF THE INTERIOR

##### BUREAU OF LAND MANAGEMENT

##### MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96-487 (16 U.S.C. 3150(a)), \$848,939,000, to remain available until expended, of which \$1,000,000 is for high priority projects, to be carried out by the Youth Conservation Corps, \$4,000,000 is for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96-487, (16 U.S.C. 3150); and of which not to exceed \$1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-6a(1)), and of which \$3,500,000 shall be available in fiscal year 2005 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation

Department of  
the Interior and  
Related Agencies  
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mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects: *Provided further*, That amounts provided under this heading may be used for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

#### ADMINISTRATIVE PROVISION

With funds available for the Technical Innovation and Professional Services program in this Act, the Secretary may transfer title for computer hardware, software and other technical equipment to State and Tribal regulatory and reclamation programs

#### BUREAU OF INDIAN AFFAIRS

##### OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001-2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, \$1,955,047,000, to remain available until September 30, 2006 except as otherwise provided herein, of which not to exceed \$87,638,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed \$136,314,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2005, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs, and of which not to exceed \$456,057,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2005, and shall remain available until September 30, 2006; and of which not to exceed \$61,801,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: *Provided*, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed \$45,348,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2004 for the operation of Bureau-funded schools, and up to \$1,000,000 within and only from such amounts made available for school operations shall be available for the transitional costs of initial administrative cost grants to tribes and tribal organizations that enter into grants for the operation on or after July 1, 2004, of Bureau-operated schools. *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September

30, 2006, may be transferred during fiscal year 2007 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2007.

#### CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract, acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87-483, \$323,626,000, to remain available until expended *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for fiscal year 2005, in implementing new construction or facilities improvement and repair project grants in excess of \$100,000 that are provided to tribally controlled grant schools under Public Law 100-297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR, the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(b), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2504(f). *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e): *Provided further*, That in order to ensure timely completion of replacement school construction projects, the Secretary may assume control of a project and all funds related to the project, if, within eighteen months of the date of enactment of this Act, any tribe or tribal organization receiving funds appropriated in this Act or in any prior Act, has not completed the planning and design phase of the project and commenced construction of the replacement school *Provided further*, That, of the funds provided for the tribal school demonstration program, notwithstanding the provisions of paragraph (b)(1) of section 122 of division F of Public Law 108-7, as amended by section 136 of Public Law 108-108, \$4,500,000 is for the Eastern Band of Cherokee education campus at the Ravensford tract, \$4,000,000 is for the Sac and Fox Meskwaki Settlement school, and \$4,000,000 is for the Twin Buttes elementary school on the Fort Berthold Reservation. *Provided further*, That

this Appropriation may be reimbursed from the Office of the Special Trustee for American Indians Appropriation for the appropriate share of construction costs for space expansion needed in agency offices to meet trust reform implementation.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS  
PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, \$44,771,000, to remain available until expended, for implementation of Indian land and water claim settlements pursuant to Public Laws 99-264, 100-580, 101-618, 106-554, 107-331, and 108-34, and for implementation of other land and water rights settlements, of which \$10,032,000 shall be available for payment to the Quinault Indian Nation pursuant to the terms of the North Boundary Settlement Agreement dated July 14, 2000, providing for the acquisition of perpetual conservation easements from the Nation

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, \$6,421,000, of which \$695,000 is for administrative expenses, as authorized by the Indian Financing Act of 1974, as amended. *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$84,699,000

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Contracts

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration (except facilities operations and maintenance) shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103-413)

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government

Alaska

relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

Notwithstanding any other provision of law, including section 113 of title I of appendix C of Public Law 106-113, if a tribe or tribal organization in fiscal year 2003 or 2004 received indirect and administrative costs pursuant to a distribution formula based on section 5(f) of Public Law 101-301, the Secretary shall continue to distribute indirect and administrative cost funds to such tribe or tribal organization using the section 5(f) distribution formula.

#### DEPARTMENTAL OFFICES

##### INSULAR AFFAIRS

##### ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, \$76,255,000, of which. (1) \$69,682,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research, grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law, and grants to the Government